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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.7650/2014

Shri Prakash s/o Ramnath Chame,
age 41 yrs., occu.service,
r/o Kasoda Tq.Gangapur
Dist.Aurangabad.

...Petitioner...

Versus

- 1] The State of Maharashtra,
through the Secretary,
School Education & Sports Department,
Mantralaya, Mumbai-32.
- 2] The Education Officer (Secondary),
Zilla Parishad, Aurangabad.
- 3] Loknete Sahebrao Patil Dongaonkar
Madhyamik Vidyalaya
(Previously the said school was known
as "Society High School"), Dongaon,
Tq.Gangapur Dist.Aurangabad.
Through its Head Master.
- 4] Gangapur Taluka Education Society,
Gangapur Tq.Gangapur.
Dist.Aurangabad.
Through its Secretary.

...Respondents...

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Shri Anil S. Golegaonkar, Advocate for petitioner.

Shri M.M. Nerlikar, AGP for respondent nos.1 & 2.

Shri Sham C. Arora, Advocate for respondent nos.3 & 4.

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**CORAM: S. S. SHINDE &
P.R. BORA, JJ.**

DATE: 10.04.2015

ORAL JUDGMENT (Per S.S. Shinde, J.) :

1] Heard learned counsel for the parties.

2] Rule. Rule is made returnable forthwith. With the consent of learned counsel for the parties, the petition is taken up for final disposal.

3] The petitioner was appointed on 22.7.2009. Approval was granted to his services by respondent no.2 on 18.3.2010. He completed three years as Shikshan Sevak satisfactorily on 22.7.2012. On 4.8.2012, the respondent no.3 sent the proposal to the respondent no.2 for approval of services of the petitioner in the pay-scale of Rs.5200-20200 as untrained Assistant Teacher. On 8.11.2012, the respondent no.2 granted approval.

4] The Government of Maharashtra provided Postal Training Scheme for the persons who have been appointed and working as Shikshan Sevak or untrained Assistant Teachers to comply the training qualifications of D.Ed. / D.T.Ed. course. It is the case of the petitioner that as per the circular dated 14.6.2010, in pursuance to the provisions of Section 23(1) and 23(2) of the Right of Children to Free & Compulsory Education Act, 2009, the

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Government has taken policy decision by considering the strength of the untrained Primary Teachers throughout the State of Maharashtra to provide them an opportunity to complete the D.T.Ed. course under Postal Training Scheme within five years period from the date of implementation of the said Act i.e. from 1.4.2010 to 31.3.2015. It is the case of the petitioner that to complete said course, by Government resolution dated 14.6.2010, 31.3.2015 was the outer limit. However, the services of the petitioner are terminated on 22.7.2014.

5] Learned counsel for the petitioner submits that the petitioner did appear for the said examination in the month of November, 2014 and result was declared on 16.1.2015. The petitioner was declared passed. Sum and substance of argument of learned counsel for the petitioner is that though the Government resolution dated 14.6.2010 stipulates the time limit to complete the said course before 31.3.2015, the services of the petitioner came to be terminated in July, 2014. Therefore, he submits that the petition be allowed.

6] On the other hand, learned AGP, relying on the averments in the affidavit in reply, submits that the

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petition is devoid of merits and the same may be dismissed.

7] Learned counsel appearing for the respondent – management informs this Court that the post which was earlier occupied by the petitioner is still vacant.

8] We have heard learned counsel appearing for the petitioner, learned counsel appearing for the respective respondents and the learned AGP for the State. With their able assistance, perused the pleadings in the petition, annexures thereto and the reply filed by the respondent – State authorities.

9] Upon careful perusal of contents of the Government resolution dated 14.6.2010, it is abundantly clear that to acquire necessary qualification of D.T.Ed., 31.3.2015 was prescribed as outer limit. Learned AGP does not dispute the position that the petitioner's case is governed by the said Government resolution.

10] In the light of discussion in foregoing paragraphs and more particularly, the Government resolution dated 14.6.2010 issued by the School Education and Sports Department, Mantralaya, Mumbai, providing time limit upto 31.3.2015 to pass D.T.Ed., in our opinion, the

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respondent – management should not have terminated the services of the petitioner. It is also not in dispute that the petitioner has now acquired the said qualification and passed the said examination on 16.1.2015.

11] In that view of the matter, the impugned order of termination dated 19.7.2014 is quashed and set aside. The respondent – management is directed to reinstate the petitioner. Since the petitioner has not worked from the date of termination till he is reinstated, the petitioner will not be entitled to back wages / salary. However, we make it clear that the petitioner will be entitled for continuity of service and other benefits. The respondent – management to reinstate the petitioner within four weeks from today. With these directions, writ petition is disposed. Rule is made absolute accordingly with no order as to costs.

(P.R. BORA, J.)

(S.S. SHINDE, J.)